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C7/102 (3)

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1058 of 2002

Petitioner : Daras Ram Tandan, aged 54 yrs. S/o Shri Achche Ram, R/o Jajang, Tahsil Sakti, Distt. Janjgir-Champa.

VERSUS

Respondents: 1. Kholbahra Ram, aged 42 yrs. S/o Late Shri Nanki Dau r/o Tohiladih,

Post Jajang, SarPanch Gram Panchayat,

Jajang, Tahsil Sakti, District Janjgir-Champa.

2. Sub Divisional Officer,

Sakti, District Janjgir- Champa.

PETITION UNDER ARTICLES 226/227 CONSTITUTION OF INDIA.

1502/02

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 1058/02 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

5-8-2003

Shri Somant Pandey, Advocate for the petitioner.

Shri Rajesh Pandey, Govt. Advocate for the State.

Heard.

This petition under Article 226/227 has been filed by the petitioner on the ground that respondent No. 1 was a Sarpanch and the Sub-Divisional Officer started proceedings for removal of respondent No. 1 under Section 40 of the Panchayat Raj Adhiniyam. It is stated on a complaint lodged by the petitioner, the proceedings under Section 40 of the Adhiniyam were started. Copy of the complaint is filed as Annexure-I. Annexure-II is the notice, which is said to be issued by the Sub Divisional Officer to the Sarpanch. It is submitted that thereafter orders have been passed on 18/4/2002 by the Sub Divisional Officer for removal. Copy of the said order has not been filed. The petitioner contends that he had applied for certified copy of the order, which has

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not been granted. He has filed the said application as Annexure-III. The relief claimed in the petition is that respondent No. 1 may kindly be removed from the office of Sarpanch of Gram Panchayat Jajang and further action in accordance with law may kindly be ordered to be taken against him.

Learned counsel for the State on the other hand submits that the petition filed is vague, cryptic and does not contain the relevant details and concise statement of material facts. It is not even mentioned as to what writ is claimed by the petitioner. Notice for demand of justice has also not been made. It is submitted that the petition be dismissed.

But, in the opinion of this Court, a party, who has engaged a counsel, should not suffer because of the mistake of the counsel. For invoking jurisdiction under Article 226/227 of the Constitution of India, the facts are required to be properly pleaded and the relevant law is to be quoted. The

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petition should contain the concise statement of material facts. When the matter is filed in the High Court through a counsel, especially under Article 226/227 of the Constitution of India, proper care should be taken. Counsel is expected to mention as to what writ, order or direction is claimed in the petition. It should contain the relevant details and concise statement of material facts. Violation of law, rules or regulations should be specified.

So far as the present case is concerned, the petition is vague, the drafting is very casual. It is not even mentioned as to what writ is claimed by the petitioner. Notice for demand of justice has also not been made. Annexure-I also is not dated. The petitioner and the counsel both to be careful while making the pleadings. The only relief, which can be granted, is that the Sub Divisional Officer shall supply all the documents including the order of removal of the Sarpanch, if any, to the petitioner as demanded by filing an application. If

XI-HC-22

(23)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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the order of removal has been passed by the Sub-Divisional Officer and the same has not been challenged by the Sarpanch or stayed by the competent court of law, there is no reason why the same will not be given effect to. The same shall be given effect to.

Accordingly, this writ petition stands disposed of subject to the observations/directions made hereinabove.

Sd/-
Fakhruddin
Judge

Hande/-

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18/8/02